

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

In Re: Smith, Donald Paul

Bk. No.: 05-22051

Debtor

**TRUSTEE'S MOTION TO CONVERT
CASE TO CHAPTER 7**

The Trustee, Thomas H. Fluharty, moves the Court to enter an Order converting this Chapter 11 case to one under Chapter 7 and in support thereof states as follows:

1. The Trustee was appointed Chapter 11 Trustee on September 16, 2008.
2. The Trustee is conducting no operation or business and the debtor would be as well served in a Chapter 7.
3. It appears that costs would diminish in a Chapter 7, maximizing the estate for creditors.

WHEREFORE, the Trustee moves the Court to enter an Order converting this Chapter 11 case to one under Chapter 7.

Respectfully submitted,

/s/ Thomas H. Fluharty
Thomas H. Fluharty, Trustee
WV Bar No.: 1231
408 Lee Avenue
Clarksburg, WV 26301
(304) 624-7832

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **TRUSTEE'S MOTION TO CONVERT CASE TO CHAPTER 7** was served upon the following individuals, by placing a true and correct copy thereof in the United States mail, postage prepaid, at the addresses listed below, on the 21st day of September, 2010.

Served electronically on:

Joseph W. Caldwell, Esquire
joecaldwell@verizon.net

Counsel for Debtor

Office of the U.S. Trustee
ustpreion04.ct.ecf@usdoj.gov

/s/ Thomas H. Fluharty
Thomas H. Fluharty, Trustee
WV Bar No.: 1231